

**CONSUMER PROTECTION & GOVERNMENT OPERATIONS
COMMITTEE MEETING
of the
Suffolk County Legislature**

Minutes

A regular meeting was held in the Rose Y. Caracappa Auditorium, at the William Rogers Legislature Building, Veterans Memorial Highway, Hauppauge, New York on **April 11, 2002** at 11:30 A.M.

MEMBERS PRESENT:

Legislator Cameron Alden, Chairman
Legislator Lynne C. Nowick, Vice Chair
Legislator Allan Binder

MEMBERS ABSENT:

Legislator Bill Lindsay
Legislator Martin Haley

ALSO IN ATTENDANCE:

Paul Sabatino, Legislative Counsel
Legislator Ginny Fields
Warren Greene, Aide to Legislator Cameron Alden
Jim Dobkowski, Press Secretary to Presiding Officer Paul Tonna
Terry Pearsall, Aide to Legislator Bill Lindsay
Geoffrey Fine
Bill Faulk, County Executive's Office, I.R.
Leo Hindery, Jr. Chairman & CEO, YES Network
Bob Davis, YES
Brad Race, YES
Carl Yellon, Aide to Legislator Andrew Crecca
Charles Gardner, Director, S.C. Consumer Affairs
Meghan O'Reilly, Liaison to Presiding Officer Paul Tonna
Ed Hogan, Aide to Legislator Lynne Nowick
Joe Muncey, Budget Review Office
All Interested Parties

Minutes taken and transcribed by Irene Kulesa, Legislative Secretary

(The meeting came to order at 11:30 a.m.)

CHAIRMAN ALDEN:

I would ask that any Legislators that are in the building to please report to the auditorium. We're going to start the Consumer Protection Committee Meeting. The first thing we're going to do right now though is we'll say the Pledge and that will be led by Legislator Binder.

SALUTATION

CHAIRMAN ALDEN:

Thank you Allan. I'm just going to ask that we observe just a moment of silence also, we're still involved in a military campaign overseas. And for those who have lost their lives and those that are serving, I would just ask that we take one moment to remember them. And also the victims that actually on September 11th, were killed in a terrorist attack.

ONE MOMENT OF SILENCE

CHAIRMAN ALDEN:

Thank you very much. Okay to start out, I just prepared a small opening statement and I'd just -- I'm going to read this for the record. Good morning ladies and gentlemen. Last evening, at approximately 5:15, a representative from Cablevision telephoned my legislative district office to announce that they would not send a representative to this morning's meeting. They said that they did not want to engage in any debate over the issues involved in this dispute. Debate, this is not a debate but rather a public forum. I am disappointed in Cablevision but this public hearing will continue. And let that empty chair signify Cablevision's arrogance and contempt for the community they are supposed to serve.

I wish to thank Leo Hindrey, Chairman and CEO of the YES Network for appearing today before this committee. The economics of sports and sports programming is having a significant impact on the pocketbook of the average fan.

We have now reached a point, for example, where only a handful of New York Yankee Baseball Games will appear on commercial TV. That's free TV. To make matters worse, baseball fans have yet to watch a single Yankee Game on Cablevision, as a direct result of the dispute between Cablevision and the YES Network. The dispute revolves around just how much extra it will cost per month for baseball fans to watch the New York Yankees this year on Cablevision.

To date, Cablevision has refused to allow the Yankees to become a part of their basic package. One of the questions I wanted to ask Cablevision representatives this morning is the reason for that policy decision, when every major cable system in the Tri-State Region has elected to make Yankee Baseball part of their basic package.

Initially, I had indicated that Cablevision had the broadcast rights to show Cleveland Indian Baseball Games and that Cablevision had elected to put those games on their system as part of their basic package. However, to correct the record, Cablevision recently sold their cable system in Cleveland but that's really not the point. The larger fact remains and must be addressed. Why did Cablevision place the Cleveland Indians on their basic package?

Finally, I want to make it abundantly clear this is not a debate but rather a discussion. I anticipate this to be a public forum where this legislative body can get some answers to some difficult questions and a difficult problem that to date has kept the New York Yankee fans for the most part, in the dark. The public is being held hostage and someone needs to break the logjam. I had hoped this meeting produced the movement needed to get the sides back to the bargaining table, so that baseball fans, not just Yankee baseball fans but baseball fans would be able to watch the New York Yankees on Cable.

And again, I want to thank you Mr. Hindery, for coming down this morning. Since all we have is an empty chair next to you and I apologize for that I'm just going to lead off with a couple of questions to you. But I think that we can actually, well not get to the two sides going again in a backroom or anything that we have here. But I think we can get to some important questions and possibly can lead to some future answers and some future action that we might have to take.

But one of the things that Cablevision says is that they've addressed to you a memorandum or a letter that would allow you to put the Yankees on their Cable System and you could set the rates. You could take all the profit. Could you address that?

MR. HINDERY:

I will and again, before chatting, it's my pleasure to be here. This is not a dispute or it shouldn't be and to be frank, it shouldn't be about Cablevision or the YES Network. It has to be about the consumers and the fans of the Yankees who live in this County. The Yankees have been carried in basic, in this marketplace since 1988. There are a total of 30 operators in the four State areas. Mr. Chairman, it's actually all of New York, most of New Jersey, Connecticut and Eastern Pennsylvania. It's about eight and quarter million households. There are 29 Cable Operators in one significant satellite provider Direct TV. Twenty-eight of

the 29 Cable Operators are carrying the network in basic, similarly so is Direct TV, the satellite operator.

I think too often Cablevision would like us all to think this is some dispute between the YES Network and Cablevision. It may be for them, as it's never been for me. We didn't show up in town with a third baseball team and try to sort of shoehorn our way into a marketplace. The Yankees have been here forever. They've been in basic forever. And the offer that was made to me recently by Cablevision was labeled by them as unprecedented, to be frank sir, it's sort of {unprecedentedly} bad. When 29 people do one thing and the 30th person does something quite the opposite, perhaps he or she needs to look themselves in the mirror. And when I tried to figure out why we're even here today and certainly I'm glad to be here but why are we here? It's because Cablevision, in my opinion, is abusing its public trust. It has an enormous public trust as the incumbent Cable Operator here in Suffolk County and in Long Island.

But Cablevision, unlike the other 29 people who carry the network Mr. Chairman, is also a programmer. And our service is a competitor to their programming interests. So they have offered, so to speak, in their words {unprecedentedly} offered to let the YES Network be a premium service. Their own services are not offered in premium except in selected parts of their service area where they feel that they can take more money out of the pockets of the people of Long Island. They contractually require all other Cable Operators who carry MSG to carry them basic. All of their other owned programming services are carried in basic. I could agree to putting the YES Network into what's called a premium or ala Carte service.

The Yankees are something very special to this community and to this region. They would actually do quite well in such a construct and by that, I mean they would be placed alongsides the likes of HBO and ShowTime. And they would be priced at something around using Cablevision's own estimate, around ten dollars a month. Just because they made the offer doesn't mean it's a fair offer. I can't, in good conscience, tolerate a circumstance where only people of high means; high incomes get the Yankees. The Yankees have been in basic since 1988. The other 29 operators and I believe they deserve to stay in basic.

And the thing that is just so concerning to me is when I try to figure out again, why them and why not the other folks? It's because they own a competing service. They lost the Yankees to the YES Network. If they would simply give back to the people, to the women and men of Suffolk County what they've lost, we wouldn't be here either. This is a company that is a competitor to YES. It's trying to have its economic cake and eat it too and under the guise of premium, is saying that I'm at fault. I've said to friends of mine, in trying to begin better understand all this, when people that you respect in life think you're doing something stupid, you probably are. But when 29 people think this is the right thing to do, put it in basic, where it's always been and the 30th guy says no way. Perhaps the 30th guy needs to look himself in the mirror and I think he's going to find a competitor when he looks in the mirror. I think Mr. Chairman, he's going to find somebody who is trying to come into the market fairly and he is trying to have his economic cake and eat it too, as I said.

CHAIRMAN ALDEN:

You've been a Cable Operator or a System Operator in the past? You've served as CEO or --

MR. HINDERY:

Not yet.

CHAIRMAN ALDEN:

Or some capacity in that regard? Who did you have to answer to? In other words, the FCC? Was it Congress? And put yourself in the position where you're out here on -- operating in Suffolk County, in a franchise, because that's really what it is, a franchise, in Suffolk County. Who would you feel that you would have to answer to?

MR. HINDERY:

To you Mr. Chairman and to your associates. I did have the privilege, for a very long time of

running the largest Cable Company in America. And that was a responsibility that I took so seriously, it scared the pants off of me. I never would have taken an action that would have caused one of my customers to cease being my customer. Or to ever put me in front of a hearing, such as occurring today. Sitting with you and your associates in an informative fashion was something I was eager to do always. But sitting in front of you to have being called, so to speak on the carpet, would have been just a horrible day for me.

A week and a half ago, when I sat with Cablevision and I said, why are we having this dispute? What will it take to resolve it? The answer, very publicly and they've confirmed it is when customers vote with their feet and go someplace else and/or when you and your associates and people like you and your associates take enough exception of their behaviors, maybe they'll do what the other 29 folks do. And I just find that unacceptable. You should never take an action when you have the only keys to the door. And Cable Operators, with all respect, have enormous responsibility.

There is only one Cable Operator in this market. The particular responsibility that that entails is just absolute. If you also own programming and are a distributor and in effect is -- if you're the operator and the programmer that two hats carries with it tremendous responsibility. What I don't want to see happen today is anybody walking out of here saying the Cable Industry are bad guys. The Cable Industry has changed the world and done it just nobly and well, in my opinion. Twenty-nine people looked at this service and said it's a good service. It's fairly priced. Let's carry it. And one guy says no. He's the one who needs to talk about what's happening here today. But I would never -- to your question, ever have taken an action that cost me a customer to a satellite alternative, Direct TV or cause me to sit here in front of you all today, empty chair or not. It would have just ruined my month, I'll tell you.

CHAIRMAN ALDEN:

Thank you. What I'm going to do is I'm going to throw it open to other members of the committee. If you have questions or comments and then -- Legislator Nowick.

LEGISLATOR NOWICK:

Thank you for coming here Mr. Hindery. Did I say that right?

MR. HINDERY:

Yes, ma'am.

LEGISLATOR NOWICK:

Just a question? You said that you would like the Yankees put in basic where it has always been? When it was there and because I don't know if I watched or not. But was there a charge for that at the time?

MR. HINDERY:

Sure.

LEGISLATOR NOWICK:

What was it? How did that work?

MR. HINDERY:

The Yankees went into basic Ma'am, at about 1988. MSG was formed in 1988 and that's when the industry began to have enough channels. If you look back at the history of the industry for really almost three decades, the Cable Industry simply retransmitted broadcast signals that couldn't be received with rabbit ears. And beginning in the late '70's, with HBO, ESPN and CNN, programming began to be developed that was unique to Cable and that was sort of the birth of what we call multi-channel television. Beginning in the latter part of the '80's, the number -- the technology kept improving and the number of those channels rose. So that by 1988, there was enough channel capacity in this market, in markets like it that the Yankees began to be carried often on a separate service called at the time MSG. It was priced at that time at about forty to fifty cents per subscriber per month and has risen over time to the average price we're trying to charge is about a dollar eighty-five.

There are about 100 channels that comprise basic television in America. And some of them Ma'am, are literally pennies per month per subscriber, two, three, four, five cents and the highest is two dollars and ninety cents. And there are 27, what are called regional sports networks throughout the United States. This is one of those 27. The range on those prices is eighty-five cents in the low end to a high of two dollars and ninety cents. Our rate apples to apples is about a dollar eighty-five. ESPN is another point of reference is about a dollar seventy-four. That's a tremendous amount of money. That's a lot of money. For that, you get 135 Yankee Games and 75 Mets Games, 38 Manchester United Matches. You get a lot for it. But -- and it's very expensive. I acknowledge that. And it's driven by the fact that we pay a lot for these rights. But we also will have {viewership} that is no longer Ma'am, even factors higher than some of the lower rated services. It is often on most nights tens of factors higher.

So when you look at this sort of complex issue, you say well gosh, there's some expensive ones and there's some less expensive ones and why can't they all be less expensive? Well because they're different. It's like a newspaper. Newspapers have multiple sections. Some cost more to produce than others. Some are more popular than others. And I had -- one of the greatest privileges I've ever had in my career was that when I was also running one of the large Cable Companies. I was also Chairman of C-Span. There would be no C-Span or History or LifeTime or A&E or Discovery in a world of ala Carte premium. And it sounds so interesting to contemplate. But the whole premise of media in America is aggregation. That there are some things I watch passionately, with all respect to things that I never watch.

And I suspect there are things that are in some senses, you and I perhaps, share some things and they are quite different on the other.

If media is cut in parts and sliced up and sold only by the women and men who would like to watch it or read it or view it in some -- over the Internet, whatever fashion you want to come, a few services survive and most everything else doesn't survive. The newspaper of record, in this community is Newsday. If Newsday were sold on popularity only, it would be a big sports section. There would be no editorial section and things wouldn't make it. We have to be frank about that. It's why we have aggregation. But what is concerning to me about having that debate at this time, is it's not the issue. The issue is that YES is a competitor to MSG. The other 29 have reflected on the issue and said that's not the issue.

We believe in what's happening here and we carry it in basic. The 30th guy who owns a competing service called MSG said don't even think that you're showing up in my town and taking customers from me. My God, I may have to give back to the people of Suffolk County a rebate for what I've lost. I'm not going to do that. So I've got the key to the front door and I'm going to keep that door shut now against your service because you compete against my service.

And it's been reported in the press that there are four of these fights underway with Cablevision now. I'm just the most visible. They're fighting LifeTime, of all things. Nobody fights LifeTime. But they have a competing woman service called WE. So they're fighting LifeTime. You can't get Turner Classic Movies in most of Cablevision because they own American Movie Classics. There's a wonderful little service called the Sundance Channel that Bob Redford started, so that independent film producers in America could have a forum for their service. They don't carry it because they carry their own service called IFC. I just happen to be in the bubble right now and the biggest guy.

The point I was trying to make to the Chairman was if you're a programmer and a distributor, you're held to such a standard. It's bad enough to be just the operator. We all know how tough that is. It's a tough thing to do. But so many of the people do it well and responsibly. But when you own programming as well, you better do it doubly well and that seems Ma'am, to be the issue to me anyway.

CHAIRMAN ALDEN:
Legislator Binder.

LEGISLATOR BINDER:

Mr. Hindery, thank you for coming. Obviously, it's a complex problem. This is some -- the question of bundling or aggregating versus not aggregating is a big question. You say some things would fall off and your example of Newsday, you know, if it was a popularity contest, actually probably Newsday wouldn't be sold. But if it was a popularity contest --

CHAIRMAN ALDEN:

For the record, we'll note that the Newsday reporters are grabbing their hearts.

LEGISLATOR BINDER:

No, it is what it is. You talk to most people --

MR. HINDERY:

For the record, Mr. Hindery didn't share that concern.

LEGISLATOR BINDER:

No, no, no but if --

MR. HINDERY:

The points well made.

LEGISLATOR BINDER:

Right. But I think a lot things are aggregate. Let's talk about that besides the programming part because that will be a separate question. But an aggregation, those things that would fall off, we can think of the History Channel and the Discovery and there's a number of things that might fall off. Well they are aggregated. Things that don't fall off, things like sports, this doesn't fall off. So I don't know that this fits your paragon because what we have here is something that has a high demand. And the demand is for a particular type of service that has a high number of people that would like to see it. So I don't know how this fits into your aggregation argument. Sometimes, shouldn't some things be split off from aggregation when the cost is higher? I mean, this is not the same price as the History Channel. The cost is much higher and there are a number of people that don't like it. We also have two teams and so people are paying for Mets premium and now they have to pay for, in their rate, two, three dollars, whatever it is for Yankees if they never watch it or if they are Met fans. So now they're paying for two teams. Isn't this separate? Isn't this a different question than the general aggregation question?

MR. HINDERY:

I think it's actually right on the point, with all respect. I do believe that the Yankees are so unique. And this sport service called YES is so unique and it's self serving perhaps but I think it's so attractive that it would sell well as a premium service. And that number, pick a number, because Mr. Dollan has suggested it himself is about ten dollars. I think that I have an ethical responsibility to make this service affordable to people of lesser means and middle class incomes. If you're a person of means and you live in the higher income parts of the island and you're saying well, let's see how this one works out with Hindery and the Dollans? It sells as a premium service for ten dollars. Who cares? I can handle that. It never works out with Hindery and the Dolans, I have to go buy a dish. Heck, I can afford that. I have a big house. I can go get my direct TV subscription and shoot, Hindery wins and it stays in basic. Well that's the best of all worlds.

What if you're person of lesser means and middle class incomes? And the only choices that Mr. Dollan, uniquely among the three, has given you is buy a dish, rewire your house for it, so to speak, go to that expense. And perhaps you live in a multi-family residence? Not everybody in Long Island lives in Oyster Bay. A lot of people work very hard out here to raise their families and live responsibly. And a lot of them live in multi-family units where they can't get a Direct TV subscription. They can't afford the ten dollars a month. So just because I could do it, doesn't mean by any ethical standards sir, I should do it. And this service is the one service that I am confident, am confident, would in fact sell quite well as a premium offer. But when the reason --

LEGISLATOR BINDER:

Do you make as much money if it sells at a premium offering?

MR. HINDERY:

I can't.

LEGISLATOR BINDER:

You don't have as many subscribers? You don't have a three million people subscriber base? The advertisers are not knocking on your door at the same number? You think you make the same money?

MR. HINDERY:

Absolutely.

LEGISLATOR BINDER:

So this is not a fiscal argument for you at all?

MR. HINDERY:

It is not for me.

LEGISLATOR BINDER:

So you're fighting this out just on an ethical basis?

MR. HINDERY:

You bet I am. You bet I am and look at HBO?

LEGISLATOR BINDER:

I have a hard time believing that.

MR. HINDERY:

Then listen to me for a second. Look at HBO for a second. A highly profitable, very attractive, bought by Time Warner AOL to be its most valuable single asset, not a dollar of advertising sells for ten dollars a month. It works. They're not sitting here talking about it. That service and ShowTime and the services like ShowTime have just simply designed subscription base models that obviate advertising.

LEGISLATOR BINDER:

But it's not a regional service. When you say -- you're comparing an HBO National Service or International Service, with a regional sports team? Look, to be honest, there's got to be some truth in the fact that it's got to be better for the YES Network to have all the subscribers on because we don't know who's watching and who is not watching and everybody paying. You can claim all of the whole Cablevision subscriber base as part of your base, when you're going to advertisers? Is that -- you tell me, would it make a difference to them?

MR. HINDERY:

The whole premise --

LEGISLATOR BINDER:

Do they pay more?

MR. HINDERY:

I've lived in this industry my whole career. You're an observer. With all respect, all I would have to --

LEGISLATOR BINDER:

You came here for observers, sorry.

MR. HINDERY:

All I would have to do to make this -- is to simply switched from an ad-based model and subscription to a subscription only model. The whole premise of having ad-based services is

so we don't have to come as a Cable Industry here and talk to you about rate increases that you find excessive. Advertising supports programming very positively.

LEGISLATOR BINDER:

So let's say it costs ten dollars a month? How long is the baseball season?

MR. HINDERY:

Baseball season is --

LEGISLATOR BINDER:

Six months?

MR. HINDERY:

About six and a half months.

LEGISLATOR BINDER:

Six, seven months. We're talking sixty or seventy dollars because people can put it on when they want, turn it off when they don't want. People have done that with other premium channels when Yankee Start, you get the service. You take it off. So we're talking -- now, I know this Legislature here passed what is a fifty-dollar utility tax with absolutely no problem. Fifty bucks, we said it was no big deal, fifty bucks. In fact, the least among us, we're talking about don't worry they can afford it. Yet we're talking here seventy, we're talking Oyster Bay for seventy dollars. You bring in Oyster Bay because there's an ethical consideration; I have a hard -- I'm sorry, I'm having a real hard time --

MR. HINDERY:

Then you're not --

LEGISLATOR BINDER:

Having an ethical consideration at seventy dollars that everyone in the system, whether they watch it or they don't watch it for a premium service that has demand? That a lot of people will take? That it might cost them seventy dollars a year but that I should pay or whoever it is that may not watch it, they might -- they have to pay two, three dollars a month on top of what is a rising bill. I'm concerned about that.

MR. HINDERY:

With all respect sir, I think then, let's go through the list of a hundred services. Pick the ones you like. Pick the ones you don't like. And let's add them all up. The ones you don't like and it's a whole lot more than my buck eighty-five.

LEGISLATOR BINDER:

You see the same -- see I say, in some instances, aggregation is probably a good thing. In other words, when you can aggregate in those instances, in those instances, where you need to support it, like I keep going back to the History Channel because a lot of people like it.

But I don't know how it is. When you can aggregate in a great sense, a lot of different channels that's all well in good. My concern is when you have -- when you try to compare this to let's say History Channel, this is in another league. You have an ability that they don't have and I -- this is a business decision both of you are trying to make and come to a decision on. I think Yankee fans need to see Yankee baseball, absolutely. That has to happen. You guys have to find some way to work this out. But at the same time, I have a concern when they're not here. Comments like well, I was talking to them and until you force them and until people like you, they're not going to do it. And throwing lines out, as if you had a discussion and there's no response obviously.

MR. HINDERY:

I had the discussion Mr. Binder, a week ago Monday. It was exacerbating.

CHAIRMAN ALDEN:

Legislator Binder, also --

LEGISLATOR BINDER:

I have a concern about putting out things that other people say in private conversations when they're not here to say whether that was the way I said it, in the context, I said it in.

CHAIRMAN ALDEN:

Legislator Binder, you see the empty seat there? They had the opportunity and up until 5:15 last night, they had indicated to this Chairman that they were going to be here.

LEGISLATOR BINDER:

It's my --

CHAIRMAN ALDEN:

They could have answered --

LEGISLATOR BINDER:

It's my understanding that -- my understanding because I called over and I asked them. I got the letter and so I said why won't you be here? And my understanding is that they've decided there's a company policy that in the past that they don't, they won't do these things in public. And look, whether it's a good or bad business decision, it's a business decision that someone is not going to be in a chair with a negotiating partner across from them and I can understand that.

CHAIRMAN ALDEN:

That's fine and when they responded, they should have said originally, we're not coming. They said they were coming. They actually identified two representatives of their company and until 5:15 last night, those two people --

LEGISLATOR BINDER:

And originally, it was probably without the YES Network.

CHAIRMAN ALDEN:

The company's policy --

LEGISLATOR BINDER:

And my understanding, it might have been without the YES Network.

CHAIRMAN ALDEN:

Oh no, no, no. They knew the YES Network was coming. And up until 5:15 last night --

LEGISLATOR BINDER:

I understand the YES Network wasn't coming here for -- until recently.

MR. HINDERY:

That's Mr. Binder, I accepted the invitation to come the instant it was rendered. That is incorrect to say that the YES Network was never coming.

LEGISLATOR BINDER:

My understanding the invitation was only a few days old.

CHAIRMAN ALDEN:

Actually, let me just -- let me correct the record? Let me correct the record on that. I mean, YES was not invited until Cablevision actually told my Legislative Aide that we should invite them. And at that point, we invited YES and they accepted. So it was at the non-insistence but at the recommendation of Cablevision.

LEGISLATOR BINDER:

And I'm not there for the conversation. And it's not --

CHAIRMAN ALDEN:

I was. You have my word on it.

LEGISLATOR BINDER:

Well, it's not for me to say whether they should or shouldn't be here. Whether a Legislature can't pass legislation and force anything to happen.

CHAIRMAN ALDEN:

Well, actually that's a --

LEGISLATOR BINDER:

In doing this --

CHAIRMAN ALDEN:

Actually that's off the record, Allan but go ahead.

LEGISLATOR BINDER:

My concern is that there are issues. There are issues here that concern all of Long Island, everyone who is on Cable. Everyone could be looking at a rate increase versus those who might have to pay fifty, sixty, seventy dollars for whatever months that they might take.

And I don't know the best way to do this. And I don't know the best way for you and Cablevision to work this out. And I understand the question of the programming side and that is a concern. But that's a federal concern. Because at a federal level, our federal government said we're going to de-regulate this. And so we're going to let this thing go out there and maybe what should have -- now maybe that concern that you have needs to go to Congress and they need to --

MR. HINDERY:

Mr. Binder, they didn't de-regulate it. In 1996, they passed the Telecom Act of 1996. The 1992 Cable Act, which is still the law of the land requires Cable Operators who are also programmers to act with grave responsibility. There is an absolute federal mandate for people who wear both hats to act responsibly.

LEGISLATOR BINDER:

Are they violating the law?

MR. HINDERY:

That's not for me to say. I'm not a jurist. We may find out.

LEGISLATOR BINDER:

Then that might be. But at this point, right now, there's no lawsuit I know of. There's no southern district of New York taking action against them.

CHAIRMAN ALDEN:

There is a lawsuit pending in federal over in CI at this time.

MR. HINDERY:

There actually is sir.

LEGISLATOR BINDER:

By whom?

MR. HINDERY:

It was filed two days ago. It was a class action.

CHAIRMAN ALDEN:

Oh, by a group of subscribers?

LEGISLATOR BINDER:

Okay. Well, with that --

MR. HINDERY:

Then what?

LEGISLATOR BINDER:

But that's not the southern district. That's not the -- the federal government taking an action against them to enforce federal regulations.

MR. HINDERY:

But Mr. Binder, we're not trying -- this isn't a court. This is a matter of grave, grave concern to an awful lot of nice people.

LEGISLATOR BINDER:

Absolutely.

MR. HINDERY:

I came here to listen to you and answer any questions you might have. And the thing that is of concern to me and then perhaps might be of concern to you is when 29 operators from South Jersey to Buffalo do one thing and the 30th guy does something quite the opposite. Perhaps that regardless of the legal foundation, people in public policy roles, whether they be -- or people in the press, people who represent consumer interest, simply should inquire why is the 30th individual doing something quite the opposite of what he or she has done since 1988, on their own services? That's the issue. This isn't a court of law. I acknowledge that.

This is a forum that I was anxious to have someone here from Cablevision. I've said for months, the first person that I talked to was Cablevision in September.

As I said, in my opening comments, we didn't show up with a third baseball team sir and ask to show up in your community. The Yankees have been in basic since 1988. I have invited every occasion, every forum, every press that wants to talk about this to quickly amicably, quietly confidentially, any adjective you want, any adverb you want, get this fixed. And I'm simply suggesting that the one guy, who's taking exception, their hands aren't clean on this matter because they own a competitor. And we can have these more macro debates; I'll have them anytime with anybody. As we sit here today on a Thursday afternoon, there's a ballgame playing right now on YES and everybody in the four State region who can get it is getting it except for Cablevision subscribers. That concerns me.

LEGISLATOR BINDER:

And I would say there's a concern here and there's a concern with all the parties involved here. And I don't know that being here right now, it would seem to me that the YES Network and Cablevision should be in a room somewhere, the doors locked and figuring it out instead of being here.

CHAIRMAN ALDEN:

I had that exact plan, Allan.

LEGISLATOR BINDER:

That's great.

CHAIRMAN ALDEN:

I was going to offer our conference room and see if we can get the game.

LEGISLATOR BINDER:

That would have been good.

CHAIRMAN ALDEN:

I know.

LEGISLATOR BINDER:

That would have been good.

CHAIRMAN ALDEN:

Do you have any other questions?

LEGISLATOR BINDER:

That's it.

CHAIRMAN ALDEN:

Legislator Fields.

LEGISLATOR FIELDS:

Thank you, I appreciate your indulgence. I am not a member of this committee. But certainly, the name of the committee is Consumer Protection and I think that's why Legislator Alden brought this bill forward and asked -- invited both of the -- both you Mr. Hindery and Cablevision. But one of the key things that you said and I just want to add that we all represent rather diverse communities. Some Legislators represent very wealthy communities and some, in addition represent some very poor communities. And going back to when I was a little girl in the '50's, you could go to see a Yankee ballgame for a fairly nominal figure and you could see it on television. And I, today, found out that in order to buy four tickets to a Yankee game for my family of four, if I wanted to sit in the bleachers, it would be thirty two dollars. And then it ranges up to tier, main reserved, main box, field box and it goes from thirty two dollars for a family of four to two hundred and sixty dollars for a family of four, which is very difficult for the average person to get to see a game without it being cost prohibitive. I then took a ride yesterday to the Wiz to find out what the Cable packages are and what they cost and that's rather high and that ranges from forty some odd dollars or thirty nine dollars way up.

And you mentioned that men and women should have an opportunity to see Yankee baseball but I think that what we're forgetting here is kids. And those are our future. And they're the future ballplayers. And they're the ones that watch Yankees and other ballplayers as mentors and as examples. And they're the ones that play in, you know, the streets if they don't have lots to play in or if they're not in organized baseball where they can join a team. But I think what we're doing here is we are evaluating whether or not the average human being can watch a Yankee game. And since this is a Consumer Protection Committee, we're looking also at a very important point that you made. Cablevision is not only a programmer, where if you could define programming, maybe that would be more interesting to know. And they are also a distributor and that because of those two hats that they wear, they're -- I would estimate and I would suggest that there is a major conflict of interest here. So I would just ask you to define what a programmer does if they act alone. What a distributor does if they act alone? And what happens when a programmer also is a distributor?

MR. HINDERY:

I really think, Legislator that is the question actually. I am just a programmer. I'm not owned by anybody in the Cable Industry. A lot of us thought that this point in our lives to Mr. Binder's comment that there would be other, what we call "wire line competitors" in markets like this. There's actually only one. If one Cable Operator in this market is unaligned, unaffiliated, unintegrated programmer, an independent programmer as I am, I knock on their door and I hope they answer. I don't get to vote whether they carry my service. I can't force them legally to carry my service, if they're just a distributor. If they're just a Cable Operator. And that obviously, carries with it a lot of responsibility on the part of Cablevision. Because they alone decide what goes on that dial. We pray that they listen to people, such as yourselves and the other Legislators and the people of Suffolk County. They don't have to. They don't have to. So I knock on the door and I hope it answers. But I put their -- I've worn their hat for a long time in my career. And I always, as I said to the Chairman, I always tried to listen to customers and viewers and fans and try to carry programming that was of interest. Heck, I made more money if it was well received and popular. I understood that. It's when they wear both hats that problems arise. And as I said to Legislator Nowick, the problem is if it's a straight up competitive service --

LEGISLATOR FIELDS:

Could I just interrupt? Could you just define what does a programmer do and then what does a Distributor do? That I think --

MR. HINDERY:

Cable Operator or Distributor owns the wires down the street, down the telephone poles and then ultimately, into your home. It's their wire. And that signal comes to them what's called a head in, which is a physical location here on Long Island and they push it down the wire into your home. I am just a programmer, unlike NBC and LifeTime and A&E and anybody else who has a clever or he or she thinks has a clever programming idea and I make up a network. And I made up this one called YES. And friends of mine have made up one called the History Channel and another friend made up one called Discovery and LifeTime. And we all thought we were pretty clever and our people would like to see us and view our product and we offered it to the Cable Operator. And they get to decide just like, to be frank, newspapers decide which comic strips you and I watch. There's only newspaper. There's a lot more comic strips than there is pages in the newspaper. They decide. It's a huge trust and they go out, which I used to do.

And once or twice a year, I used to ask people what they wanted to watch and then I'd carry it and that's a nice dynamic. And those of us who don't have Cable Systems supporting us, we trust in the judgment and the responsibility of the Cable Operator. And the Cable Operator, bless their hearts, they trust in us to bring them good programming and then there are the people in the middle and there's nothing wrong with them. There's some wonderful people in the middle who do it really well who own both the channels and the pipeline. And if one of those channels is called MSG, which had the Yankees and lost the Yankees to YES, I'm not surprised that I'm having this problem. And that's the incumbent responsibility that we've talked about this morning.

LEGISLATOR FIELDS:

Well that's what I wanted to ask, now that we have it defined. So what we're saying here really is that Cablevision is the only thing in town as far as Cable.

MR. HINDERY:

Right.

LEGISLATOR FIELDS:

And they had one channel that is an opponent or a competitor and now there's another one out there and they are deciding, as a monopoly that they are going to show whatever it is that they're going to show?

MR. HINDREY:

That's right.

LEGISLATOR FIELDS:

So there's a question here.

MR. HINDREY:

It comes somewhat to Mr. Binder's question, which is, if my price wasn't fair, if my quality wasn't high, if this wasn't of interest to viewers, nobody owns me, I own myself. These other 29 would have said stick it. We're not carrying this service. I used to do it all the time if somebody walked in. There was one called the Puppy Channel, which was a channel that was simply twenty-four hours of music playing behind pictures of puppies. Well, I didn't have enough channel capacity to carry the Puppy Channel, so I didn't carry it. And perhaps the woman or man who started the Puppy Channel thought that was unfair, I don't know. But it was a tough judgment but I don't have unlimited capacity as a Cable Operator. So I didn't carry the Puppy Channel.

Twenty-nine people looked at the YES Network and said it's priced fair or they would have made me change it. Its quality is high or they made me get higher quality. It's the Yankees, by gosh, it's the Yankees or they wouldn't been interested. And Legislator, to your question, the 30th guy, the 30th guy owns MSG and they had the Yankees. If they would simply give back to the people of Suffolk County an economic rebate that approximates what they've lost to YES, we wouldn't be here either. This is a company, with all respect that is a competitor and is trying to have, I think with all respect again, its economic cake and eating it too and that's a little tough to swallow.

LEGISLATOR FIELDS:

Thank you.

LEGISLATOR NOWICK:

I just want to say one thing. The gentlemen I know is not here today. A representative from Cablevision did come to my office, did ask to speak to me, did want to present his side or their side. It sounds to me and I'm glad I have an opportunity to hear your side as well. It sounds to me, it's easy for us as Legislators and as Government to say this is what we want. This is what we want. You are both businessmen.

MR. HINDREY:

Sure.

LEGISLATOR NOWICK:

I would hope and I would ask, as a Legislator, I would hope -- I would ask you maybe if you could go back to the drawing board, the both of you. You're businessmen. I know that you know what's best for your business and I think as well as your viewers. Maybe we can ask you to go back to the drawing board to come up with something to satisfy both these Yankee fans. And by the way, I got a call from my mother today and she wants those Yankees, so don't let me down. Maybe if you --

MR. HINDREY:

Giambi is out of his slump. So what you --

LEGISLATOR NOWICK:

But you are a businessman. So maybe you can go back to the drawing board. Maybe you can come up with something to satisfy everybody.

MR. HINDREY:

Legislator, to Mr. Binder's comment, I am committed right now to an advertising subscription model. This is killing me. People say how much does it hurt. It hurts three eight's. That's how much it hurts. My expenses are exactly the same and my revenues at every category, whatever they might be, are down three eight's. Because there's eight million houses in this four State region. Five are taking it and three aren't. So how much does this hurt? It hurts three eight's. I'll meet anytime, anyplace to fix this. That's why I'm here today. If Cablevision listens to your plea, as I've tried to, I'll meet them. If the Chairman wants to give me an office near here, I'll do it right now. This has got to get resolved. But with all respect, it shouldn't be about YES. You know I'm a businessman. I just lost three eighths of my revenue. How good is that. Cablevision has four billion dollars of revenues this year. Eight hundred and eighty five million dollars what they call {EBADAR} profit. With all respect, it shouldn't be about Cablevision either. It should be about an amicable timely soft resolution. I want that to happen very badly.

LEGISLATOR BINDER:

Mr. Chairman?

CHAIRMAN ALDEN:

Legislator Binder.

LEGISLATOR BINDER:

I guess my concern is that there are larger issues and I -- and there's only one side here I think. And if I were you, I would give my side and I would put it in very --

MR. HINDERY:

Do you want me to give their side?

LEGISLATOR BINDER:

No but I give very similar -- I'd give it in a very similar manner. In my opinion, clearly, just my opinion from what I hear and from what I've read that the issue goes really beyond that. I don't know there's a wealthy, non-wealthy issue here. I don't know that Yankee fans who don't pay for Mets because it's premium that Met fans and non-baseball fans should be paying for Yankees. So that -- that's subsidization. Maybe it's Republican. It galls me a little that we're talking about everybody should subsidize the Yankees. So it's not a Republican thing that we should all do that and people -- I mean, no one -- you know if you're paying premium for Mets, no one is subsidizing you. And there's a lot of questions out there and I think they're beyond what was said here.

And I think there are business decisions and I think there is a -- you talk about two different models, advertising, subscription or you can go to subscription, very expensive model. Pure subscription, no advertising, very expensive. I don't know what even with your numbers would be. I don't know if you can make the same. I have a model about this is what you guys do and what your Bookkeeping Department does and they sit down and they see what's the best model. Obviously, in a business sense, advertising is probably the best model for you or you wouldn't be going that way. So if I were you? I wouldn't want to go premium. Because you don't get that three million people, person basic subscriber, basic and it hurts the advertiser and I understand that. And so what you've got really is, we've got a business clash that's going on here. I think it's a lot deeper but I don't blame you.

As I say, I don't blame you for coming out and saying exactly what you said. If I was sitting there, I'd give it that way too. But I think there's a business clash, all sides have business interests. We have corporations. We have business interest. I understand that. I don't know that we should decide. Should we decide whether non-baseball fans and Met fans should be paying Yankees even though no ones paying for the Met fans? I don't know. I don't know that we should be making that decision for the system. I know that you guys need to because there are a ton of Yankee fans who want to see the baseball. However, they want to see it, however, it ends up. If it's somewhere in the middle between we create a new class of pseudo premium, I don't know. I don't know how to do it because I'm not in the industry. But I can tell you this! People want to see Yankees baseball and there are two companies who can't get together who need to, otherwise business interests will hurt. Our -- in the interest of our constituents in wanting to see this sports entertainment is going to hurt. So I don't think we're calling for any side to say, you do it the way you want to do it. We're just saying get in the room and figure out how to do it because everyone is waiting for the result.

MR. HINDERY:

I think that's well said and I appreciate the sentiment as I appreciated Legislator Nowick's sentiment. The issue should never be for people who are entrusted with policy roles, such as you all have. Commercial disputes between people is not a good place to find yourself nor should you find yourself there. There is an empty chair to my left. I would ask, as we depart this afternoon that you think about the fact that maybe there's actually 29 chairs behind me here. This isn't between Cablevision and YES. There are 29 -- if I might finish?

LEGISLATOR BINDER:

If I could just interrupt? Because you've used the 29 here. I just wanted to interrupt you for a second. I don't know the economic interest of the 29. You keep using that and I don't know the difference --

MR. HINDERY:

Let me tell you that -- let me tell you --

LEGISLATOR BINDER:

You're going to tell me the difference but they won't and Cablevision won't. And I'm just saying that there's definitely something going on. I don't know if those 29 are similarly situated in terms of their business interest, financial and how they do things. I don't know if it's a question of competition with MSG. All I know is that we need this -- we need a resolution of this.

MR. HINDERY:

I couldn't agree more. The 29 range from companies so small that I, who had the privilege of being in the industry a long time, don't even barely recognize their names to Time Warner, Cable and Comcast and AT&T and Cox and Direct. These are people of stature and accomplishment and achievement. The point that needs to be reflected on here is the one that you and the Legislator made, which is, let's do the right thing by these viewers, customers, fans, citizens, voters, however, we want to characterize them. But you do have a responsibility here. It's an enormous one. These people operate off of franchises that have given them responsibility and unique access to the homes of Suffolk County. That is a public trust that needs to be managed thoughtfully and sensitively. I'll meet again. I don't want to be repetitive here, anytime, anyplace. We want it resolved sir. We really do.

LEGISLATOR BINDER:

And I appreciate but understand that we also represent those people who are Met fans, who are not baseball fans. We represent all of them and so how it gets resolved --

MR. HINDERY:

Right.

LEGISLATOR BINDER:

The concern, my concern, if we say we want to do Yankees different than Mets and then everybody should subsidize. I mean that's not a question that should be here. It's got to be -
- it's in a business realm, you guys got to work that out and we'd like to see that.

MR. HINDERY:

And I've never asked anybody in a policy role to resolve a commercial dispute. It's unfair. I am encouraged and grateful for the sentiment from all of you to just get it fixed. I'd like to get it fixed.

CHAIRMAN ALDEN:

Thank you. And Legislator Binder, it's an interesting point that you do bring up. But -- and it's not a but, it's just in furtherance of it. Right now, we do subsidize sports in our basic Cable price on ESPN and we did subsidize the Yankees on basic up until last year when MSG lost the Yankees. So this is a systemic thing and as far as, you know, who's watching this, I know that last year there was a very, very healthy rate increase of -- I'll put it at that end, approximately 8 percent and I'm not sure who decided that was warranted. Because it is a franchise that they're giving. Or that they were given by a government entity. So as far as whether it is or isn't, you know, that is something that a regulatory body can look into and the business practices are something that are traditionally governmental. So I join in your sentiment. Though we really do need to get this fixed. Any other questions or comments?
Thank you very much for coming down today.

MR. HINDERY:

My pleasure, thank you. It's nothing if not entertaining. Thank you.

LEGISLATOR BINDER:

We try to entertain in the Suffolk County Legislature.

MR. HINDERY:

My pleasure thanks.

CHAIRMAN ALDEN:

And actually, we have one card before we go to the agenda and that's Geoffrey Fine.

MR. FINE:

I don't need to speak.

CHAIRMAN ALDEN:

Okay. All right. We'll just jump right over to the agenda. Thanks a lot. Okay, we have a tabled resolution and that's 1187-2002 and that is brought by Legislator Lindsay.

LEGISLATOR BINDER:

Motion to table for a hearing.

CHAIRMAN ALDEN:

Motion to table for a hearing by Legislator Binder, second by myself. All those in favor?
Opposed? That's tabled for a public hearing.

I.R. NO. 1187-2002 (P) Adopting Local Law No. -2002, A Local Law to ensure scanner item pricing accuracy within Suffolk County. ASSIGNED TO CONSUMER PROTECTION & GOVERNMENT OPERATIONS (Legislator Bill Lindsay)

VOTE: 3-0-0-2 TABLED PENDING PUBLIC HEARING

CHAIRMAN ALDEN:

Having no other --

LEGISLATOR BINDER:

I would just suggest that we have a pretty vigorous look at this. This is an important piece of legislation and that you might want to have interested parties, whether it be Union, Pat Broadhagen, I think represents the retailers.

CHAIRMAN ALDEN:

Also for enforcement.

LEGISLATOR BINDER:

All of this. I would like to have a pretty vigorous discussion here in committee.

CHAIRMAN ALDEN:

Well, actually what you've done is you've tabled it now for a public hearing. It comes back to us and if it doesn't -- if it really doesn't get covered in the public hearing we'll make sure that in this committee, we will look at all aspects. All right, having no other business before this legislative body, we'll -- I'll make a motion to adjourn, second by Legislator Binder. All those in favor? Opposed? We stand adjourned. Thank you.

(The meeting was adjourned at 12:25 P.M.)

{ } Denotes spelled phonetically